

SERVICE DATE - DECEMBER 4, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 390X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY–  
ABANDONMENT EXEMPTION–BETWEEN LOVING AND PECOS JUNCTION, NM,  
AND BETWEEN PECOS JUNCTION, NM, AND RUSTLER SPRINGS, TX

Decided: November 27, 2002

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a line of railroad between BNSF milepost 196.00 near Loving, NM, and milepost 217.20 near Pecos Junction, NM, and between milepost 0.00 near Pecos Junction, NM, and milepost 25.34 near Rustler Springs, TX, a total distance of 46.54 miles. Notice of the exemption was served and published in the Federal Register on December 28, 2001 (66 FR 67363-64). In the December 28 notice, the Board stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by December 28, 2002, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.<sup>1</sup>

Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. On October 30, 2002, BNSF filed a request to extend the deadline for filing its notice of consummation. BNSF states that the extension is necessary due to imposition of the historic condition and delays in clearing the condition barring disposition. BNSF further states that it recently awarded a bid to remove the track material on the line but adds that, due to the line's heavy welded rail and scheduling issues, salvage operations

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<sup>1</sup> By a decision served on January 28, 2002, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to several environmental conditions, including the condition that BNSF retain its interest in and take no steps to alter the historic integrity of all sites or structures on the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. In a decision served on March 22, 2002, the historic condition and a condition relating to storm water discharge were limited to the portion of right-of-way located within New Mexico. By a decision served on August 14, 200, the section 106 historic preservation condition was removed.

cannot be completed until approximately April 1, 2003. Therefore, BNSF requests an extension until May 1, 2003 to consummate the abandonment. The request will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. BNSF's request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before May 1, 2003.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary